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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 THE ECLIPSE GROUP, LLP, a
12 California limited-liability partnership,
13 Plaintiff,
14 v.
15 TARGET CORPORATION, et al.,
16 Defendants.

Case No.: 3:15-cv-1411-RBM-BLM

ORDER:

(1) **DENYING INTERVENOR
PLAINTIFF STEPHEN M. LOBBIN'S
MOTION FOR
RECONSIDERATION (Doc. 287);**

(2) **SETTING BRIEFING
SCHEDULE AND HEARING ON
PENDING MOTIONS; and**

(3) **DIRECTING PARTIES TO
COMPLY WITH CALIFORNIA
CODE OF CIVIL PROCEDURE
SECTION 708.440**

[Doc. 287]

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26 On February 1, 2023, the Court issued an order granting Intervenor-Plaintiff Stephen
27 M. Lobbin's ("Lobbin") motion to vacate certain rulings issued by U.S. District Judge Janis
28 L. Sammartino due to a financial interest which would have required Judge Sammartino to

1 recuse herself from the case under 28 U.S.C. § 455(b)(4). (Doc. 285.) Pursuant to its
 2 February 1 Order, the undersigned vacated Judge Sammartino's orders issued at Docket
 3 Nos. 228, 240, 248, 257, 262, and 269¹ and stated it will conduct a *de novo* review of all
 4 motions underlying the above-vacated orders. (*Id.* at 9 n. 9.) One of the orders vacated by
 5 the undersigned's February 1 ruling was Judge Sammartino's September 28, 2018 Order
 6 Granting Plaintiff's Motion to Approve Settlement, Dismissing Action with Prejudice, and
 7 Denying as Moot Intervenor's Motion for Reconsideration (Doc. 228).

8 On February 15, 2023, Lobbin filed a motion for reconsideration of the
 9 undersigned's February 1 Order on the basis that he no longer joins the Motion to Approve
 10 Settlement underlying Judge Sammartino's now-vacated September 28, 2018 Order
 11 "because of the problems resulting from the ambiguity of the parties' prior August 2018
 12 putative settlement agreement."² (Doc. 287 at 2.) Lobbin's contention that he no longer
 13 joins the Motion to Approve Settlement does not present new or different facts and
 14 circumstances to support reconsideration of the undersigned's vacatur order. *See* CivLR
 15 7.1(i)(1). The undersigned's vacatur order merely examined whether or not Judge
 16 Sammartino had a conflict of interest while presiding over the case and what orders, if any,
 17 required vacatur. Accordingly, Lobbin's motion for reconsideration (Doc. 278) is
 18 **DENIED.**

21 ¹ The vacatur of Judge Sammartino's orders is not a reversal of her rulings.

22 ² Lobbin cites an August 2, 2018 motion to approve settlement issued at Docket 206 as the
 23 motion he no longer joins. (Doc. 287 at 2.) Judge Sammartino denied the August 2, 2018
 24 motion without prejudice because the parties did not follow California Code of Civil
 25 Procedure § 708.440 and did not provide the underlying settlement agreement for the
 26 Court's review. (Doc. 207.) On August 9, 2018, Plaintiff The Eclipse Group LLP filed a
 27 motion to approve settlement which was joined by Defendants Target Corporation and
 28 Kmart Corporation and Intervenor Lobbin. (Doc. 208.) On September 28, 2018, Judge
 Sammartino granted the August 9, 2018 motion (Doc. 208). (Doc. 228.) The undersigned
 vacated Judge Sammartino's September 28, 2018 order approving the settlement. (Doc.
 285.) It appears Lobbin erroneously referenced the August 2, 2018 motion at Docket 206
 as opposed to the August 9, 2018 motion at Docket 208 as the motion he "no longer joins."

1 The Court permits, but does not require, the parties to submit optional supplemental
 2 briefing, not to exceed fifteen pages in total, in support of their briefing on the motions that
 3 are now pending (Docs. 208, 215, 222, 230, 234, 236, 238, 239, 242, 246, 249, 253, 254,
 4 255, 260, 261, 263, 265, 266) due to the undersigned's vacatur of Judge Sammartino's
 5 orders. The supplemental briefing, if any, must be filed no later than **April 3, 2023**.
 6 Judgment creditor Burkhalter Kessler Clement and George, LLP may file optional
 7 supplemental briefing in response to The Eclipse Group LLP's August 9, 2018 Motion to
 8 Approve Settlement (Doc. 208), which must be filed no later than **April 3, 2023**. Only the
 9 merits of the respective motions and why the Court should rule in favor of Plaintiff,
 10 Defendants, Intervenor, and/or Judgment creditor Burkhalter Kessler Clement and George,
 11 LLP, respectively, shall be addressed in these supplemental briefs. The parties may address
 12 whether and why Judge Sammartino's rulings issued at Docket Nos. 228, 240, 248, 257,
 13 262, and 269 were legally or factually incorrect, but the Court will not entertain argument
 14 as to her disqualification or violation of 28 U.S.C. § 455. A hearing on the pending motions
 15 (Docs. 208, 215, 222, 230, 234, 236, 238, 239, 242, 246, 249, 253, 254, 255, 260, 261, 263,
 16 265, 266) is **HEREBY SET for April 12, 2023 at 1:30pm** in Courtroom 5B.

17 Given that The Eclipse Group LLP's August 9, 2018 Motion to Approve Settlement
 18 is pending a ruling by the undersigned, the parties are **DIRECTED** to comply with
 19 California Code of Civil Procedure § 708.440. The parties are **DIRECTED** to serve the
 20 following documents on Burkhalter Kessler Clement & George LLP and its counsel of
 21 record: (1) a copy of this order; (2) a copy of the Court's February 1, 2023 Order re:
 22 Intervenor Plaintiff Stephen M. Lobbin's Motion to Vacate Dismissal & Subsequent
 23 Rulings Following District Judge's Recusal (Doc. 285); (3) a copy of The Eclipse Group
 24 LLP's August 9, 2018 Motion to Approve Settlement (Doc. 208); and (4) any supplemental
 25 briefing filed in response to this Order.

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